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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

JENNIFER LYNN HUFFMAN,

Defendant and Appellant.

F075584

(Super. Ct. No. MF012280A)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Kern County. David R. Lampe, Judge.

Daniel G. Koryn, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez, Lewis A. Martinez, and Amanda D. Cary, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Detjen, J. and Franson, J.

Jennifer Lynn Huffman (appellant) contends the trial court abused its discretion by excluding testimony of her mother as an expert witness on the amount of methamphetamine typically possessed for personal use versus for sale. We affirm.

BACKGROUND

A. Facts

On the evening of October 24, 2016, Kern County Sheriff's Deputy Lewis White and his partner responded to a call for service at a residence in Mojave. Appellant answered the door and the deputies recognized her as on probation, subject to search for illegal drugs and paraphernalia. After conducting a 30 to 45 minute "rough search" of the home, the deputies did not discover any narcotics or related paraphernalia such as scales, plastic baggies, or pay and owe sheets. White did, however, find three or four cell phones inside a backpack in one of the bedrooms and another cell phone on the kitchen table.

Appellant told White that she had last "smoked a bowl" of methamphetamine the day prior. White understood the reference to mean a single dose. She admitted being addicted to methamphetamine for about 16 years and that she used it approximately every other day. Appellant later told White that yesterday she smoked ".3 [grams]. Not very much." White believed appellant was still under the influence of narcotics based on her elevated pulse and tremors in her eyelids, hands, and legs.

While escorting appellant to his patrol car, White advised appellant she could face additional charges if she brought any illegal drugs or paraphernalia into the jail at booking. Appellant then reached into her bra and pulled out a substance wrapped in a plastic bag, which the Kern County Regional Crime Lab later confirmed contained 26.97 grams (nearly an ounce) of methamphetamine. She told White she thought it was approximately 20 grams and worth a " 'couple hundred bucks,' " but that she did not pay for it because it was given to her. When White asked what she planned to do with that amount of methamphetamine, she responded that her only plan was to get gas for her car because she was stranded.

At the jail, officers found a glass methamphetamine smoking pipe in appellant's pant leg, and a urine sample taken from her at booking tested positive for amphetamines.

B. Trial No. 1

The Kern County District Attorney charged appellant in count 1 with felony possession of methamphetamine for sale with two prior prison terms (Health & Saf. Code, § 11378; Pen. Code,¹ § 667.5, subd. (b)) and in count 2 with misdemeanor being under the influence of a controlled substance (Health & Saf. Code, § 11550, subd. (a)). The trial court permitted appellant to call her mother and former methamphetamine addict, Sheryl Huffman, to testify as an expert witness as to a reasonable amount of methamphetamine possessed for personal use. Appellant's mother testified she did not have any formal training in methamphetamine use, but was previously addicted to methamphetamine for 15 to 20 years. She only used it with about five different people over that time and never sold it. At appellant's mother's highest point of use, she used about 3.5 grams, or an "eight-ball," of methamphetamine per day. She typically bought a quarter to a half-ounce (7 to 14 grams) at a time for personal use, but would buy as much as an ounce (28 grams) if she could afford it.

The jury found appellant guilty of misdemeanor being under the influence, but could not reach a verdict on felony possession of methamphetamine for sale. The trial court therefore declared a mistrial as to count 1.

C. Trial No. 2

During appellant's second trial on the felony possession for sale charge, a different trial court conducted an Evidence Code section 402 hearing and issued an in limine ruling precluding the defense from calling appellant's mother as an expert witness. The trial court nevertheless permitted similar testimony from appellant's friend and recovering methamphetamine addict, Dawn Ranjel. In addition to White, Kern County Sheriff's

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

Deputy James Money, assigned to the Multi-Jurisdictional Methamphetamine Enforcement Team, provided his opinion as to indicia of narcotics sales.

Following the second trial, the jury found appellant guilty of possession of methamphetamine for sale and the trial court dismissed additional allegations, including the prison priors, in the interest of justice. (§ 1385.) The trial court sentenced appellant to the middle term of three years in county jail for felony possession for sale and a concurrent term of 364 days on the misdemeanor count from the first trial of being under the influence.

DISCUSSION

Appellant challenges the trial court's ruling in her second trial denying her request to allow her mother to serve as an expert witness as to a reasonable amount of methamphetamine for personal use. An expert witness is one who "has special knowledge, skill, experience, training, or education sufficient to qualify ... as an expert on the subject to which [the] testimony relates." (Evid. Code, § 720.) "Whether a person qualifies as an expert in a particular case, however, depends upon the facts of the case and the witness's qualifications." (*People v. Boyd* (1987) 43 Cal.3d 333, 357.) "The trial court is given considerable latitude in determining the qualifications of an expert and its ruling will not be disturbed on appeal unless a manifest abuse of discretion is shown." (*Ibid.*)

Following a hearing to consider whether appellant's mother was an expert witness, the trial court concluded her experience as a potential expert in narcotic sales was not "recent enough, broad enough, and ... too personalized for her to extrapolate an overall opinion." After further argument from defense counsel, the court declined to change its ruling, adding that it did not "believe the foundation is established that the breadth of her experience in the area of sales is sufficiently established for her to render an opinion." The trial court offered the defense the option to call appellant's mother to testify for another reason, but the defense did not pursue the option. The trial court again declined to change its ruling the following day after defense counsel's third attempt.

The trial court's conclusion that appellant's mother's drug use experience was too remote in time and too narrow to provide an expert opinion on whether appellant possessed the methamphetamine for personal use or sale was not unreasonable. Appellant's mother had not purchased methamphetamine in over five years, was unfamiliar with the current cost, quality, or common use today, and used narcotics with only a limited number of people. Moreover, she lacked formal training in methamphetamine use. Meanwhile, the expert the trial court did permit to testify—recovering methamphetamine addict Ranjel—had been involved with Narcotics Anonymous for the past five years and was running such meetings for the past two years. Ranjel had talked to at least 100 people at Narcotics Anonymous meetings about their methamphetamine use and spoken to users in jail. Similar to the proffered testimony of appellant's mother, Ranjel testified that she and other users whom she had talked with had purchased up to an ounce (28 grams) at a time, using upwards of an “eight-ball” (3.5 grams) each time, of methamphetamine for personal use; she also acknowledged that the quality of methamphetamine had decreased over time, being “heavily cut” or diluted, requiring higher quantity usage to obtain the same amount of narcotics.

Notwithstanding appellant's argument to the contrary, Ranjel was no less credible than appellant's mother, as both had histories of heavy narcotics use and theft offenses. Moreover, the jury may well have found the testimony of appellant's mother far less credible considering the familial relationship with appellant.

Given appellant's ability to present similar expert testimony from Ranjel as proffered by her mother, the trial court's exclusion of her mother as an expert witness did not violate appellant's due process rights to undergo a fair trial or to present a complete defense. (*In re Martin* (1987) 44 Cal.3d 1, 29.) Accordingly, the trial court did not abuse its discretion.

DISPOSITION

The judgment is affirmed.